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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,912	09/25/2003	Clifton Harold Bromley	03SW166 / ALBRP311US	8470
7590	06/19/2006		EXAMINER	
Susan M. Donahue Rockwell Automation, 704-P IP Department 1201 South 2nd Street Milwaukee, WI 53204			HIRL, JOSEPH P	
			ART UNIT	PAPER NUMBER
			2129	

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/671,912	BROMLEY ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Joseph P. Hirl	2129

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-48 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-48 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>073004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

1. Claims 1-48 are pending in this application.

### ***Information Disclosure Statement***

2. Reference related to Firish Venkataramani is listed as a document with 129 pages. Only 30 pages were provided. This document was lined through and not considered.

### **Claim Objection**

3. Claims 13, 29 and 45 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In claims 12, 28 and 44 from which claims 13, 29 and 45 depend from, "zone of operation" is set forth as a limitation. In claims 13, 29 and 45, the limitation is "zones of operation." Hence claims 13, 29 and 45 attempt to expand the limitation of the related dependent claim.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-48 are rejected under 35 U.S.C. § 101 for nonstatutory subject

matter. The computer system must set forth a practical application of § 101 judicial exception to produce a real-world result. Benson, 409 U.S. at 71-72, 175 USPQ at 676-77. The invention is ineligible because it has not been limited to a substantial practical application.

In determining whether the claim is for a “practical application,” the focus is not on whether the steps taken to achieve a particular result are useful, tangible, and concrete, but rather that the final result achieved by the claimed invention is useful, tangible and concrete. If the claim is directed to a practical application of the § 101 judicial exceptions producing a result tied to the physical world that does not preempt the judicial exception, then the claim meets the statutory requirement of 35 U.S. C. § 101.

The invention must be for a practical application and either:

- 1). specify transforming (physical thing – article) or
- 2). have the Final Result (not the steps) achieve or produce a useful (specific, substantial and credible),  
concrete (substantially repeatable / non unpredictable), and

tangible (real world / non abstract) result

(tangibility is the opposite of abstractness).

A claim that is so broad that it reads on both statutory and non-statutory subject matter, must be amended, and if the specification discloses a practical application but the claim is broader than the disclosure such that it does not require the practical application, then the claim must be amended.

"A rendering component that automatically configures the HMI to function in accordance with predefined protocol," "the artificial component comprises a classifier," "the classifier is implicitly trained," "the classifier infers a desired HMI configuration" and "comprising a history component that stores HMI renderings" are not statutory.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Drucker et al (USPN 2004/0215657, referred to as Drucker).

**Claims 1, 17, 33**

Drucker anticipates a processing component that analyzes information relating to a current state of parameters in connection with a human machine interface (HMI) (Drucker, Fig. 1); and a rendering component that automatically configures the HMI to function in accordance with a predefined protocol (Drucker, Fig. 1; Examiner's Note (EN): ¶ 10 applies).

**Claims 2, 18, 34**

Drucker anticipates an industrial automation environment (Drucker, Fig. 1; EN: ¶ 9 applies; in this application, the point of interest is a graphic (picture) and hence whether the source is an industrial automation environment or something else, functional distinctiveness has not been achieved ... descriptive material does not establish patentability).

**Claims 3, 19, 35**

Drucker anticipates is a computer-implemented software application (Drucker, Figs. 1; 12).

**Claims 4, 20, 36**

Drucker anticipates the processing component further comprising an artificial intelligence component that processes parameters associated with an industrial automation environment (Drucker, Fig. 1; EN: see comments related to claim 2).

**Claims 5, 9, 21, 25, 37, 41**

Drucker anticipates the artificial intelligence component comprises a classifier (Drucker, ¶ 0029).

**Claims 6, 10, 22, 26, 38, 42**

Drucker anticipates the classifier is explicitly trained (**Drucker, ¶ 0030**).

**Claims 7, 11, 23, 27, 39, 43**

Drucker anticipates the classifier is implicitly trained (**Drucker, ¶ 0030**).

**Claims 8, 24, 40**

Drucker anticipates the rendering component further comprising an artificial intelligence component to facilitate rendering a HMI based at least upon the predefined protocol (**Drucker, ¶¶ 0029, 0030; EN: predefined protocol is merely the software that was written to execute the program**).

**Claim 12, 28, 44**

Drucker anticipates the predefined protocol being based at least in part upon zone of operation, user, and extrinsic data (**Drucker, ¶ 0030**).

**Claim 13, 29, 45**

Drucker anticipates the predefined protocol is further based upon at least one of:

- zones of operation;
- type of equipment being employed;
- equipment being monitored;
- user proximity to the zone;
- hierarchy of users within the zone;
- context of the operating environment;
- network conditions;
- security;

security levels;  
authentication; and,  
priorities associated with various potential user actions.

(**Drucker**, ¶ 0089; EN: type of equipment employed will define protocol or rules of operation).

**Claim 14**

Drucker anticipates the classifier infers a desired HMI configuration (**Drucker**, ¶ 0030).

**Claim 15**

Drucker anticipates the classifier employs a utility analysis as to determining a desired configuration (**Drucker**, ¶ 0030).

**Claims 16, 32, 48**

Drucker anticipates a history component that stores HMI renderings (**Drucker**, ¶ 0077).

**Claims 30, 46**

Drucker anticipates utilizing a data store to store at least one Parameter (**Drucker**, Figs. 1, 12).

**Claim 31, 47**

Drucker anticipates utilizing a data store to store at least one parameter interrogation query (**Drucker**, ¶ 0077).

### ***Examination Considerations***

7. The claims and only the claims form the metes and bounds of the invention.  
“Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)” (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.
8. Examiner’s Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner’s Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.
9. Unless otherwise annotated, Examiner’s statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be

obvious to one of ordinary skill in the art, establishing thereby an inherent *prima facie* statement.

10. Examiner's Opinion: ¶¶ 6-8 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

### ***Conclusion***

11. The prior art of record and not relied upon is considered pertinent to applicant's disclosure.

- Poerner et al, USPubN 2004/0133853
- Brandt et al, USPubN 2004/0117624
- Hsiung et al, USPubN 2003/0144746
- Melzer, USPubN 2003/0097189
- Choi, USPN 6,684,164
- Yadegar et al, USPubN 2005/0131660

12. Claims 1-48 are rejected.

### ***Correspondence Information***

Any inquiry concerning this information or related to the subject disclosure should be directed to the Primary Examiner, Joseph P. Hirl, whose telephone number is

(571) 272-3685. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, David R. Vincent can be reached at (571) 272-3080. Any response to this office action should be mailed to:

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Hand delivered to:

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Randolph Building,  
401 Dulany Street,  
Alexandria, Virginia 22313,  
(located on the first floor of the south side of the Randolph Building);

or faxed to:

(571) 273-8300 (for formal communications intended for entry).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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Business Center (EBC) at 866-217-9197 (toll free).

 P. E.

Joseph P. Hirl  
Primary Examiner  
June 12, 2006